

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

1 DANIEL RIGGS,

2 Case No. 3:22-cv-00465-MMD-CSD

3 Plaintiff

4 ORDER

5 v.

6 STEVE SISOLAK, et al.,

7 Defendants

8

9 On January 3, 2023, the Court issued a screening order and granted Plaintiff until
 10 February 3, 2023, to file an amended complaint or the case would proceed only on the
 11 Eighth Amendment conditions-of-confinement claim. (ECF No. 3 at 14-15). The Court
 12 also denied without prejudice Plaintiff's motion for appointment of a guardian *ad litem*
 13 and/or counsel. (*Id.* at 13). Plaintiff has now filed a second motion for appointment of
 14 counsel (ECF No. 6) and a motion for a thirty-day extension of time to file his amended
 15 complaint. (ECF No. 7). In support of his extension motion, Plaintiff states that he needs
 16 "additional time to research and draft the amended complaint." (ECF No. 7).

17 The Court denies Plaintiff's second motion for appointment of counsel without
 18 prejudice. A litigant does not have a constitutional right to appointed counsel in § 1983
 19 actions. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). Pursuant to 28 U.S.C.
 20 § 1915(e)(1), "[t]he court may request an attorney to represent any person unable to
 21 afford counsel." However, the court will appoint counsel for indigent civil litigants only in
 22 "exceptional circumstances." *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (§ 1983
 23 action). "When determining whether 'exceptional circumstances' exist, a court must
 24 consider the likelihood of success on the merits as well as the ability of the petitioner to
 25 articulate his claims *pro se* in light of the complexity of the legal issues involved." *Id.*
 26 "Neither of these considerations is dispositive and instead must be viewed together." *Id.*
 27 As the Court explained in its screening order, Plaintiff has failed to identify exceptional
 28 circumstances warranting the appointment of counsel at this time. (ECF No. 3 at 13).

1 The Court grants Plaintiff's motion for an extension of time. Plaintiff will file the
2 amended complaint on or before March 6, 2023. If Plaintiff chooses not to file an amended
3 complaint, this action will proceed only on the Eighth Amendment conditions-of-
4 confinement claim. (ECF No. 3 at 14-15).

5 For the foregoing reasons, **IT IS ORDERED** that Plaintiff's second motion for
6 appointment of counsel (ECF No. 6) is denied without prejudice.

7 **IT IS FURTHER ORDERED** that Plaintiff's motion for an extension of time to file
8 his amended complaint (ECF No. 7) is granted. Plaintiff will file his amended complaint
9 on or before **March 6, 2023**.

10 **IT IS FURTHER ORDERED** that, if Plaintiff fails to timely file his amended
11 complaint, this action will proceed only on the Eighth Amendment conditions-of-
12 confinement claim.

13 DATED THIS 13th day of January 2023.

CSO